

1 A bill to be entitled

2 An act relating to bail bonds; amending s. 903.045,
3 F.S.; revising legislative intent concerning the
4 obligations of a bail bond agent; revising the
5 commitments and obligations of a bail bond agent;
6 revising the circumstances that are ensured by a
7 surety bond and that constitute a breach by the bail
8 bond agent; requiring that anyone charging a fee or
9 premium to post a cash or surety bail bond must be
10 licensed under specified provisions; amending s.
11 903.26, F.S.; revising the circumstances for which a
12 surety bond deposited as bail must be forfeited;
13 revising the circumstances that require a forfeiture
14 to be discharged; amending s. 903.28, F.S.; clarifying
15 the amount of forfeiture to be remitted under
16 different specified conditions; amending s. 903.31,
17 F.S.; specifying that certain provisions concerning
18 cancellation of a bond do not apply if the bond is
19 forfeited within a specified period after it has been
20 posted; providing that an original appearance bond
21 does not guarantee placement in a court-ordered
22 program; providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:
25

26 Section 1. Section 903.045, Florida Statutes, is amended
 27 to read:

28 903.045 Nature of criminal surety bail bonds.—It is the
 29 public policy of this state and the intent of the Legislature
 30 that a criminal surety bail bond, executed by a bail bond agent
 31 licensed pursuant to chapter 648 in connection with the pretrial
 32 or appellate release of a criminal defendant, shall be construed
 33 as a commitment by and an obligation upon the bail bond agent to
 34 ensure that the defendant appears at all ~~subsequent~~ criminal
 35 proceedings for which the surety bond was posted. A person,
 36 corporation, company, or other entity that charges a fee or
 37 premium to facilitate the release of an accused defendant from
 38 jail through the posting of a cash or surety bail bond must be
 39 licensed pursuant to chapter 648 and otherwise fulfills all
 40 conditions of the bond. The failure of a defendant to appear at
 41 any subsequent criminal proceeding or the breach by the
 42 defendant of any other condition of the bond constitutes a
 43 breach by the bail bond agent of this commitment and obligation.

44 Section 2. Subsections (2), (5), (6), (7), and (8) of
 45 section 903.26, Florida Statutes, are amended to read:

46 903.26 Forfeiture of the bond; when and how directed;
 47 discharge; how and when made; effect of payment.—

48 (2) (a) If there is a failure of the defendant to appear as
 49 required breach of the bond, the court shall declare the bond
 50 and any bonds or money deposited as bail forfeited. The clerk of

51 the court shall mail or electronically transmit a notice to the
52 surety agent and surety company within 5 days after the
53 forfeiture. A certificate signed by the clerk of the court or
54 the clerk's designee, certifying that the notice required herein
55 was mailed or electronically transmitted on a specified date and
56 accompanied by a copy of the required notice, shall constitute
57 sufficient proof that such mailing or electronic transmission
58 was properly accomplished as indicated therein. If such mailing
59 or electronic transmission was properly accomplished as
60 evidenced by such certificate, the failure of the surety agent,
61 of a company, or of a defendant to receive such notice shall not
62 constitute a defense to such forfeiture and shall not be grounds
63 for discharge, remission, reduction, set aside, or continuance
64 of such forfeiture. The forfeiture shall be paid within 60 days
65 after ~~of~~ the date the notice was mailed or electronically
66 transmitted.

67 (b) Failure of the defendant to appear at the time, date,
68 and place of required appearance shall result in forfeiture of
69 the bond. Such forfeiture shall be automatically entered by the
70 clerk upon such failure to appear, and the clerk shall follow
71 the procedures ~~outlined~~ in paragraph (a). However, the court may
72 determine, in its discretion, in the interest of justice, that
73 an appearance by the defendant on the same day as required does
74 not warrant forfeiture of the bond; and the court may direct the
75 clerk to set aside any such forfeiture which may have been

76 entered. Any appearance by the defendant later than the required
77 day constitutes forfeiture of the bond, and the court shall not
78 preclude entry of such forfeiture by the clerk.

79 (c) If there is a forfeiture ~~breach~~ of the bond, the clerk
80 shall provide, upon request, a certified copy of the warrant or
81 capias to the bail bond agent or surety company.

82 (5) The court shall discharge a forfeiture within 60 days
83 upon:

84 (a) A determination that it was impossible for the
85 defendant to appear as required or within 60 days after the date
86 of the required appearance due to circumstances beyond the
87 defendant's control. The potential adverse economic consequences
88 of appearing as required may ~~shall~~ not be considered as
89 constituting a ground for such a determination;

90 (b) A determination that, at the time of the required
91 appearance or within 60 days after the date of the required
92 appearance, the defendant was ~~adjudicated insane and~~ confined in
93 an institution or hospital; ~~or~~ was confined in any county,
94 state, federal, or immigration detention facility; had been
95 deported; or is deceased ~~a jail or prison;~~

96 (c) Surrender or arrest of the defendant at the time of
97 the required appearance or within 60 days after the date of the
98 required appearance in any county, state, or federal jail or
99 prison and a hold is placed to return the defendant to the
100 jurisdiction of the court ~~if the delay has not thwarted the~~

101 ~~proper prosecution of the defendant. If the forfeiture has been~~
102 ~~before discharge, the court shall direct remission of the~~
103 ~~forfeiture.~~ The court shall condition a discharge or remission
104 on the payment of costs and the expenses incurred by an official
105 in returning the defendant to the jurisdiction of the court; or

106 (d) A determination that the state is unwilling to seek
107 extradition of the fugitive defendant within 30 days after a
108 request by the surety agent to do so, and contingent upon the
109 surety agent's consent to pay all transportation costs incurred
110 by an official in returning the defendant to the jurisdiction of
111 the court, up to the penal amount of the bond.

112 ~~(6) The discharge of a forfeiture shall not be ordered for~~
113 ~~any reason other than as specified herein.~~

114 (6)-(7) The payment by a surety of a forfeiture under ~~the~~
115 ~~provisions of~~ this law shall have the same effect on the bond as
116 payment of a judgment.

117 (7)-(8) If the defendant is arrested and returned to the
118 county of jurisdiction of the court or has posted a new bond for
119 the case at issue before ~~prior to~~ judgment, the clerk, upon
120 affirmation by the sheriff or the chief correctional officer,
121 shall, without further hearing or order of the court, discharge
122 the forfeiture of the bond. However, if the surety agent fails
123 to pay the costs and expenses incurred in returning the
124 defendant to the county of jurisdiction, the clerk shall not
125 discharge the forfeiture of the bond. If the surety agent and

126 the sheriff fail to agree on the amount of said costs, then the
127 court, after notice to the sheriff and the state attorney, shall
128 determine the amount of the costs.

129 Section 3. Subsections (2), (3), (4), (5), and (6) of
130 section 903.28, Florida Statutes, are amended to read:

131 903.28 Remission of forfeiture; conditions.—

132 (2) If the defendant surrenders or is apprehended within
133 90 days after forfeiture, the court, on motion at a hearing upon
134 notice having been given to the clerk of the circuit court and
135 the state attorney as required in subsection (8), shall direct
136 remission of ~~up to, but not more than,~~ 100 percent of a
137 forfeiture if the surety apprehended and surrendered the
138 defendant or if the apprehension or surrender of the defendant
139 was substantially procured or caused by the surety, or the
140 surety has substantially attempted to procure or cause the
141 apprehension or surrender of the defendant, and the delay has
142 not thwarted the proper prosecution of the defendant. In
143 addition, remission shall be granted when the surety did not
144 substantially participate or attempt to participate in the
145 apprehension or surrender of the defendant when the costs of
146 returning the defendant to the jurisdiction of the court have
147 been deducted from the remission and when the delay has not
148 thwarted the proper prosecution of the defendant.

149 (3) If the defendant surrenders or is apprehended within
150 180 days after forfeiture, the court, on motion at a hearing

151 upon notice having been given to the clerk of the circuit court
152 and the state attorney as required in subsection (8), shall
153 direct remission of ~~up to, but not more than,~~ 95 percent of a
154 forfeiture if the surety apprehended and surrendered the
155 defendant or if the apprehension or surrender of the defendant
156 was substantially procured or caused by the surety, or the
157 surety has substantially attempted to procure or cause the
158 apprehension or surrender of the defendant, and the delay has
159 not thwarted the proper prosecution of the defendant. In
160 addition, remission shall be granted when the surety did not
161 substantially participate or attempt to participate in the
162 apprehension or surrender of the defendant when the costs of
163 returning the defendant to the jurisdiction of the court have
164 been deducted from the remission and when the delay has not
165 thwarted the proper prosecution of the defendant.

166 (4) If the defendant surrenders or is apprehended within
167 270 days after forfeiture, the court, on motion at a hearing
168 upon notice having been given to the clerk of the circuit court
169 and the state attorney as required in subsection (8), shall
170 direct remission of ~~up to, but not more than,~~ 90 percent of a
171 forfeiture if the surety apprehended and surrendered the
172 defendant or if the apprehension or surrender of the defendant
173 was substantially procured or caused by the surety, or the
174 surety has substantially attempted to procure or cause the
175 apprehension or surrender of the defendant, and the delay has

176 | not thwarted the proper prosecution of the defendant. In
177 | addition, remission shall be granted when the surety did not
178 | substantially participate or attempt to participate in the
179 | apprehension or surrender of the defendant when the costs of
180 | returning the defendant to the jurisdiction of the court have
181 | been deducted from the remission and when the delay has not
182 | thwarted the proper prosecution of the defendant.

183 | (5) If the defendant surrenders or is apprehended within 1
184 | year after forfeiture, the court, on motion at a hearing upon
185 | notice having been given to the clerk of the circuit court and
186 | the state attorney as required in subsection (8), shall direct
187 | remission of ~~up to, but not more than,~~ 85 percent of a
188 | forfeiture if the surety apprehended and surrendered the
189 | defendant or if the apprehension or surrender of the defendant
190 | was substantially procured or caused by the surety, or the
191 | surety has substantially attempted to procure or cause the
192 | apprehension or surrender of the defendant, and the delay has
193 | not thwarted the proper prosecution of the defendant. In
194 | addition, remission shall be granted when the surety did not
195 | substantially participate or attempt to participate in the
196 | apprehension or surrender of the defendant when the costs of
197 | returning the defendant to the jurisdiction of the court have
198 | been deducted from the remission and when the delay has not
199 | thwarted the proper prosecution of the defendant.

200 | (6) If the defendant surrenders or is apprehended within 2

201 years after forfeiture, the court, on motion at a hearing upon
202 notice having been given to the clerk of the circuit court and
203 the state attorney as required in subsection (8), shall direct
204 remission of ~~up to, but not more than,~~ 50 percent of a
205 forfeiture if the surety apprehended and surrendered the
206 defendant or if the apprehension or surrender of the defendant
207 was substantially procured or caused by the surety, or the
208 surety has substantially attempted to procure or cause the
209 apprehension or surrender of the defendant, and the delay has
210 not thwarted the proper prosecution of the defendant. In
211 addition, remission shall be granted when the surety did not
212 substantially participate or attempt to participate in the
213 apprehension or surrender of the defendant when the costs of
214 returning the defendant to the jurisdiction of the court have
215 been deducted from the remission and when the delay has not
216 thwarted the proper prosecution of the defendant.

217 Section 4. Section 903.31, Florida Statutes, is amended to
218 read:

219 903.31 Canceling the bond.—

220 (1) Within 10 business days after the conditions of a bond
221 have been satisfied or the forfeiture discharged or remitted,
222 the court shall order the bond canceled and, if the surety has
223 attached a certificate of cancellation to the original bond, the
224 clerk of the court shall mail or electronically furnish an
225 executed certificate of cancellation to the surety without cost.

226 An adjudication of guilt or innocence, an acquittal, if a period
 227 of 36 months has passed since the original bond was posted, or a
 228 withholding of an adjudication of guilt shall satisfy the
 229 conditions of the bond. The original appearance bond shall
 230 expire 36 months after such bond has been posted for the release
 231 of the defendant from custody. This subsection does not apply to
 232 cases in which a bond has been declared forfeited before the 36-
 233 month expiration.

234 (2) The original appearance bond does not guarantee a
 235 deferred sentence; ~~sentences;~~ appearance during or after a
 236 presentence investigation;~~;~~ appearance during or after appeals;~~;~~
 237 conduct during or appearance after admission to a pretrial
 238 intervention program;~~;~~ placement in a court-ordered program,
 239 including a residential mental health facility; payment of
 240 fines;~~;~~ or attendance at educational or rehabilitation
 241 facilities the court otherwise provides in the judgment. If the
 242 original appearance bond has been forfeited or revoked, the bond
 243 shall not be reinstated without approval from the surety on the
 244 original bond.

245 (3) ~~If In any case where~~ no formal charges are ~~have been~~
 246 brought against the defendant within 365 days after arrest, the
 247 court shall order the bond canceled unless good cause is shown
 248 by the state.

249 Section 5. This act shall take effect July 1, 2017.